

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**JAMIE MCKINNEY ELLETT**

**PLAINTIFF**

**v.**

**No. 3:23-cv-137-JMV**

**COMMISSIONER OF SOCIAL SECURITY**

**DEFENDANT**

**ORDER ON MOTION FOR ATTORNEY FEES**

Before the Court are Plaintiff's motion [20] for attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), Defendant's response [21], and Plaintiff's Reply [22]. For the reasons that follow, the motion will be granted.

In these proceedings Plaintiff sought judicial review of the Social Security Commissioner's final decision denying a claim for benefits. By motion [15] to remand to the Social Security Administration on September 14, 2023, the Commissioner of Social Security sought further administrative proceedings in this matter. Consistent with this motion, the court entered an order [18] remanding this case to the Social Security Administration on September 21, 2023, for further proceedings. A party who obtains a remand in a social security appeal pursuant to the fourth sentence of 42 U.S.C. § 405(g) qualifies as a prevailing party for purposes of fees under the EAJA. *Breaux v. U.S.D.H.H.S.*, 20 F.3d 1324, 1324 (5th Cir. 1994) (per curiam).

Plaintiff, through her motion, sought attorney fees in the amount of \$6,514.91. In support of the motion, Plaintiff's counsel submitted a statement regarding the time expended litigating this action. According to the motion, Plaintiff's attorney spent a total of 26.9 hours on this case at a rate of \$242.19 per hour.

The defendant opposes the amount requested as the "hourly rate based on HALF1 consumer price index (CPI) for South Urban 2023 yields an hourly rate of \$241.15 per hour."

Plaintiff's counsel concedes this is the correct hourly rate, and as such asks this Court to enter an award of \$6,486.94 instead of the originally requested \$6,514.91.

The Court, having thoroughly considered the motion, Defendant's objection, Plaintiff's reply, and the applicable law, finds the amended requested award is reasonable; and no special circumstance would make the award unjust.

Therefore, it is ordered that the Commissioner shall promptly pay Plaintiff \$6,486.94 in attorney fees for the benefit of his counsel. As a matter of practice, an EAJA fee made payable to Plaintiff may properly be mailed to Plaintiff's attorney.

**SO ORDERED**, this the 25th day of September, 2023.

/s/ Jane M. Virden  
**UNITED STATES MAGISTRATE JUDGE**